

- DECISION -

Claimant:
FRANK J LUCIO

Decision No.: 2445-BR-14

Date: November 10, 2014

Appeal No.: 1413554

S.S. No.:

Employer:

L.O. No.: 64

Appellant: Claimant

Issue: Whether the claimant failed to register for work or report as required within the meaning of Maryland Code, Labor and Employment Article, Title 8, Section 902.

- NOTICE OF RIGHT OF APPEAL TO COURT -

You may file an appeal from this decision in the Circuit Court for Baltimore City or one of the Circuit Courts in a county in Maryland. The court rules about how to file the appeal can be found in many public libraries, in the Maryland Rules of Procedure, Title 7, Chapter 200.

The period for filing an appeal expires: December 10, 2014

REVIEW OF THE RECORD

After a review of the record, the Board adopts the hearing examiner's finding of fact. The Board makes the following additional findings of fact and reverses the hearing examiner's decision.

The claimant attended the workshop which produced his individual employment plan (IEP) on June 3, 2014. *See Claimant's Exhibit B1*

The General Assembly declared that, in its considered judgment, the public good and the general welfare of the citizens of the State required the enactment of the Unemployment Insurance Law, under the police powers of the State, for the compulsory setting aside of unemployment reserves to be used for the benefit of individuals unemployed through no fault of their own. *Md. Code Ann., Lab. & Empl. Art., §8-102(c)*. Unemployment compensation laws are to be read liberally in favor of eligibility, and disqualification

provisions are to be strictly construed. *Sinai Hosp. of Baltimore v. Dept. of Empl. & Training*, 309 Md. 28 (1987).

The Board reviews the record *de novo* and may affirm, modify, or reverse the findings of fact or conclusions of law of the hearing examiner on the basis of evidence submitted to the hearing examiner, or evidence that the Board may direct to be taken, or may remand any case to a hearing examiner for purposes it may direct. *Md. Code Ann., Lab. & Empl. Art., § 8-510(d)*; *COMAR 09.32.06.04*. The Board fully inquires into the facts of each particular case. *COMAR 09.32.06.03(E)(1)*.

The *Maryland Annotated, Labor & Employment Article, § 8-902* provides for the registration and reporting for work. To be eligible for benefits, an individual shall enroll with a public employment office in accordance with regulations adopted under this title. (b) Limited alteration or waiver of requirement Subject to § 8-808(b) of this title, by regulation, the Secretary may alter or waive the requirements of subsection (a) of this section for: (1) an individual attached to a regular job; or (2) an individual for whom the Secretary finds that compliance with those requirements would be oppressive or inconsistent with the purposes of this title.

In addition, *COMAR 09.32.02.04C(5)* states that if a claimant failed to report for any scheduled Department appointment, benefits may be terminated or suspended for that reason alone.

In the instant case, the claimant was instructed to attend an REA workshop on May 6, 2014. The claimant failed to attend the workshop and failed to reschedule the workshop meeting. When the claimant received the notice to appear at another scheduled workshop, he did. The Board has entered the claimant's appeal letter and attachments as Board, Claimant's Exhibit #1. Included in the attachments is the documentary evidence that the claimant attended the REA workshop on June 3, 2014.

The Board finds based on a preponderance of the credible evidence that the claimant met his burden of demonstrating that he attended the required workshop meeting as mandated by the provisions of *COMAR 09.32.02.04C(5)* and § 8-902 of the *Maryland Annotated, Labor & Employment Article, § 8-1002*. The claimant is eligible for benefits beginning the week of May 4, 2014, provided that the claimant meets the other eligibility requirements of the Maryland Unemployment Insurance Law. The decision of the hearing examiner shall be reversed for the reasons stated herein.

DECISION

IT IS HELD THAT, the Claimant reported to a local employment office when properly directed to do so within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-902 and *COMAR 09.32.02.04C(5)*. Benefits are allowed from the week beginning May 4, 2014 provided that the claimant meets the other eligibility requirements of the Maryland Unemployment Insurance Law.

The Hearing Examiner's decision is reversed.



Eileen M. Rehrmann, Associate Member



Donna Watts-Lamont, Chairperson

VD

Copies mailed to:

FRANK J. LUCIO

SUSAN BASS DLLR

Susan Bass, Office of the Assistant Secretary

UNEMPLOYMENT INSURANCE APPEALS DECISION

FRANK J LUCIO

SSN #

Claimant

Employer/Agency

Before the:

**Maryland Department of Labor,
Licensing and Regulation**

Division of Appeals

1100 North Eutaw Street

Room 511

Baltimore, MD 21201

(410) 767-2421

Appeal Number: 1413554

Appellant: Claimant

Local Office : 64 / BALTOMETRO

CALL CENTER

July 08, 2014

For the Claimant: PRESENT

For the Employer:

For the Agency:

ISSUE(S)

Whether the claimant has met the reporting requirements established by the Secretary to continue to qualify for unemployment insurance benefits within the meaning of MD. Code Annotated, Labor and Employment Article, Title 8, Section 902.

FINDINGS OF FACT

The Claimant (Frank Lucio) filed for unemployment insurance benefits establishing a benefit year effective March 23, 2014 with a weekly benefit amount of \$430.00.

The Claimant received written notice from the Agency to attend a meeting regarding skills assessment and reemployment services on May 6, 2014. Prior to this, he was told about this requirement by an Agency employee when he opened his claim. The claimant failed to attend this meeting. He did not call the Agency before the date of the meeting to inquire as to the instructions he received to attend it or to inform the Agency that he was unable to attend it. After his benefit payments stopped, he made some telephone calls to the Agency, but did not reschedule the missed meeting.

CONCLUSIONS OF LAW

Md. Code Ann., Labor & Emp. Article, Section 8-902 provides that in order for a claimant to be eligible for benefits, the claimant must (1) register for work at an employment office; and (2) report to the employment office as directed. Section 8-902(b) states that these requirements may be waived where "... the Secretary finds that compliance with these requirements would be oppressive or inconsistent with the purposes of this title."

COMAR 09.32.02.04C (5) states that if a claimant fails to report for any scheduled Department appointment, benefits may be terminated or suspended for that reason alone.

EVALUATION OF EVIDENCE

The Hearing Examiner considered all of the testimony and evidence of record in reaching this decision. The Hearing Examiner decided the facts on the credible evidence as determined by the Hearing Examiner where the evidence was in conflict.

The Claimant contended that he failed to attend the meeting because he was confused when he received numerous documents in the mail from the Agency. However, he did not deny receiving the written notice of the date, time and place of the meeting and had also previously been given that information in person. He did not call the Agency in an attempt to clarify anything about which he claimed to be confused.

The Claimant also candidly admitted that he made no effort to reschedule or contact the Agency until such time that he stopped receiving his benefits. He said he did actually reschedule the meeting and attend it on June 3, 2014. The Claimant was given an opportunity, after the hearing, to supply documentary evidence that he rescheduled and attended the meeting on June 3, 2014. The Claimant did not supply such evidence.

As the Claimant was given clear instructions (date, time and place) to attend this meeting, both in writing and in person, his contention that he was confused because of the volume of mail he received from the Agency is not persuasive. Therefore, no good cause for his failure to attend has been established.

In addition, the Claimant failed to provide evidence that he rescheduled and attended the meeting on June 3, 2014 or at any other time.

DECISION

IT IS HELD THAT, the Claimant failed to report to a local employment office when properly directed to do so within the meaning of Md. Code Ann., Labor & Emp. Article, Section 8-902 and COMAR 09.32.02.04C(5). Benefits are denied from the week beginning May 4, 2014 and until such time that the Claimant meets the eligibility requirements of the Maryland Unemployment Insurance Law. The Claimant may contact Claimant Information Service concerning the other eligibility requirements of the law at ui@dllr.state.md.us or call 410-949-0022 from the Baltimore region, or 1-800-827-4839 from outside the Baltimore area. Deaf claimants with TTY may contact Client Information Service at 410-767-2727, or outside the Baltimore area at 1-800-827-4400.

The determination of the Claims Specialist is affirmed.

L. Williamson

L. Williamson, Esq.
Hearing Examiner

Notice of Right to Request Waiver of Overpayment

The Department of Labor, Licensing and Regulation may seek recovery of any overpayment received by the Claimant. Pursuant to Section 8-809 of the Labor and Employment Article of the Annotated Code of Maryland, and Code of Maryland Regulations 09.32.07.01 through 09.32.07.09, the Claimant has a right to request a waiver of recovery of this overpayment. This request may be made by contacting Overpayment Recoveries Unit at 410-767-2404. If this request is made, the Claimant is entitled to a hearing on this issue.

A request for waiver of recovery of overpayment does not act as an appeal of this decision.

Esto es un documento legal importante que decide si usted recibirá los beneficios del seguro del desempleo. Si usted disiente de lo que fue decidido, usted tiene un tiempo limitado a apelar esta decisión. Si usted no entiende cómo apelar, usted puede contactar (301) 313-8000 para una explicación.

Notice of Right to Petition for Review

This is a final decision of the Lower Appeals Division. Any party who disagrees with this decision may request a review either in person, by facsimile or by mail with the Board of Appeals. Under COMAR 09.32.06.01A (1) appeals may not be filed by e-mail. Your appeal must be filed by July 23, 2014. You may file your request for further appeal in person at or by mail to the following address:

Board of Appeals
1100 North Eutaw Street
Room 515
Baltimore, Maryland 21201
Fax 410-767-2787
Phone 410-767-2781

NOTE: Appeals filed by mail are considered timely on the date of the U.S. Postal Service postmark.

Date of hearing: June 17, 2014
AEH/Specialist ID: UTW8F
Seq No: 005
Copies mailed on July 08, 2014 to:

FRANK J. LUCIO
LOCAL OFFICE #64